

SAMUEL TRUSIK and JEANNINE TRUSIK : CIVIL ACTION
:
v. :
:
MONTGOMERY COUNTY, et al. : NO. 96-5083

MEMORANDUM AND ORDER

Fullam, Sr. J. April , 1998

By Memorandum and Order dated January 7, 1997, I ruled that plaintiffs' complaint was sufficient to withstand dismissal under Fed. R. Civ. P. 12(b)(6), but left open the possibility that, at a later stage, a motion for summary judgment might be appropriate. Defendants have now presented a motion for summary judgment, to which plaintiffs have responded.

Unfortunately, the materials submitted by defendants in support of their motion do not readily yield the information needed to determine whether there are factual issues for submission to a jury. Defendants' motion consists of a single page, which relies upon "the accompanying Memorandum of Law and Exhibits, as well as the entire record herein." Accompanying the motion is a substantial pile of papers, loosely bound together by a metal clasp. These include a 12-page memorandum of law, and approximately 18 exhibits. The exhibits are not separated or tabbed, and each exhibit bears an exhibit number only on its first page. Thus, the only way to locate the various exhibits

referred to in the memorandum of law is to laboriously leaf through the scores of pages, one by one, in the hope of finding an exhibit number for the next exhibit. Several of the exhibits consist of pages from various depositions, but the identity of the deponent is not revealed except on the first page of the deposition.

A more serious problem is the fact that several of the exhibits consist of handwritten lists or memoranda; the handwriting is obscure, and the photostatic copies are of poor quality. Many of the seemingly crucial exhibits consist of photostatic copies of business records which are not self-explanatory, and which are nowhere explained. Finally, several of these exhibits were folded before being photostated, so that the apparently relevant entries are totally obscured.

On the basis of the legible and accessible parts of the record, it appears that plaintiff Samuel Trusik was arrested on February 13, 1996, along with several other men, in a highly-publicized roundup of "deadbeat dads" conducted annually by the Montgomery County Sheriff. Plaintiff was arrested pursuant to a bench warrant which had been issued in early November 1995 as a result of plaintiff's alleged non-appearance at a hearing to compel payment of arrearages on a support order for his son. Plaintiff's evidence is to the effect that he did appear at the hearing, the warrant was issued as a result of a clerical error,

the error was called to the attention of the proper authorities, and the appropriate authorities notified him in December 1995 that the warrant had been withdrawn. After his arrest, plaintiff was held in custody overnight, and was released some seven hours later; the arresting sheriffs refused to listen to his protestations.

From the defendants' perspective, plaintiff's unfortunate experience was simply the result of a series of clerical errors, but these errors reveal nothing more than ordinary negligence, and cannot give rise to a violation of constitutional rights. From plaintiff's perspective, however, his arrest was the result of the intentional adoption of a policy characterized by reckless disregard of constitutional rights. It is argued that the defendants are chargeable with knowledge that the bench warrant for plaintiff's arrest was quite stale, but made no genuine effort to verify its continued validity; that mistakes are much more likely to occur in a generalized roundup than in the normal processing of individual cases; and that defendants' efforts to advance their public relations agenda (a generalized roundup of suspects, timed to coincide with Valentine's Day) posed significant risks of harm to innocent reputations if mistakes did occur, and also exerted pressures on staff personnel which made mistakes more likely.

While the issue is not free from doubt, I conclude that

plaintiffs are entitled to attempt to convince a jury that this was not simply a case of negligence or incompetence, but a foreseeable consequence of an official policy designed to achieve publicity and personal aggrandizement without appropriate regard for constitutional rights of due process.

The Motion for Summary Judgment will be denied.

An Order follows.

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

SAMUEL TRUSIK and JEANNINE TRUSIK	:	CIVIL ACTION
	:	
v.	:	
	:	
MONTGOMERY COUNTY, et al.	:	NO. 96-5083

ORDER

AND NOW, this day of April, 1998, upon
consideration of Defendants' Motion for Summary Judgment IT IS
ORDERED:

The motion is DENIED.

John P. Fullam, Sr. J.